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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/526,057	08/04/2005	Michael Koinzer	117163.00124	4644
21324 7590 01/25/2007 HAHN LOESER & PARKS, LLP One GOJO Plaza Suite 300 AKRON, OH 44311-1076			EXAMINER STOKLOSA, JOSEPH A	
			ART UNIT	PAPER NUMBER
			3762	
SHORTENED STATUTORY PERIOD OF RESPONSE		NOTIFICATION DATE	DELIVERY MODE	
3 MONTHS		01/25/2007	ELECTRONIC	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Notice of this Office communication was sent electronically on the above-indicated "Notification Date" and has a shortened statutory period for reply of 3 MONTHS from 01/25/2007.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patents@hahnlaw.com
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Office Action Summary

Application No.

10/526,057

Applicant(s)

KOINZER ET AL.

Examiner

Joseph Stoklosa

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 December 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☒ Claim(s) 1-15 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 February 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 1249906 2/28/05

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Priority

1. Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d). The certified copy has been filed in parent Application No. 202136132 filed on 08/28/2002.

Information Disclosure Statement

2. The information disclosure statement (IDS) submitted on 2/28/2005 is acknowledged. The IDS meets the requirements of 37 CFR 1.97 and 1.98 and therefore the references therein have been considered.

Drawings

3. The drawings are objected to under 37 CFR 1.83(a) because they fail to show 26, a main body; 44, an operating display; 58, a battery power supply disposed behind a cover, as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for

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consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

4. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "38" has been used to designate both serial interface and a push button. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

5. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "40" has been used to designate both a main power supply port and an undesignated port not indicative of a main power supply connection. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement

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drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

6. The drawings are objected to under 37 CFR 1.83(b) because they are incomplete. 37 CFR 1.83(b) reads as follows:

When the invention consists of an improvement on an old machine the drawing must when possible exhibit, in one or more views, the improved portion itself, disconnected from the old structure, and also in another view, so much only of the old structure as will suffice to show the connection of the invention therewith.

7. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date

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of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Reference numeral 50 refers to a printer keyboard. Fig. 1 shows numeral 50 to be a simple square latch/bay configuration that is not indicative of a keyboard. Numeral 66 is referenced in Fig. 2, however it is not referenced in the specification. The drawings are objected to under 37 CFR 1.83(a) because they fail to show the labeled individual components within the block diagram of Fig. 3, as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement-drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If

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the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

8. In addition to Replacement Sheets containing the corrected drawing figure(s), applicant is required to submit a marked-up copy of each Replacement Sheet including annotations indicating the changes made to the previous version. The marked-up copy must be clearly labeled as "Annotated Sheets" and must be presented in the amendment or remarks section that explains the change(s) to the drawings. See 37 CFR 1.121(d)(1). Failure to timely submit the proposed drawing and marked-up copy will result in the abandonment of the application.

Specification

9. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed. The title listed on the specification does not match the filed title name.

Claim Objections

10. Claims 1-15 are objected to because of the following informalities: Claim 1: line 1, the word "such" should be removed. Line 8, "power supply unit" is not connected to any other parts of the claimed invention and is unclear if it relates to the later claimed power units. Line 10, "is made up of" and "from" should be removed and it is suggested that they be replaced with "is" and "includes." Line 11, "in such a way" should be

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deleted and replaced with the phrase "wherein". It is suggested that the numerous "and"s be removed present in lines, 11 and 12.

Claim 2, it is suggested that the phrase "one the one hand" as well as the phrase "on the other hand" be removed.

Claim 4, it is suggested that the phrase "in such a way" be removed and replaced with "wherein". The term "coupled condition" is vague and indefinite to the meaning. It is undefined what it is coupled to have a coupled condition.

Claim 8, line 5, the phrase "control unit" is inferentially included. It is unclear if the control unit is being positively recited or if it is being functionally recited.

Claim 9, line 10; the term "flexible electrical feed line" is inferentially included and must be either positively recited or functionally cited first.

Claim 11 and 14 the terms "data interface" and "power supply interface" are vague.

Claim 1, also discloses a data interface and power supply interface. It is unclear if these are the same aforementioned interfaces or if they are different.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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12. Claims 1-6, and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Snell et al. (US 5,724,985). Snell et al. discloses an external programming device for an implant comprising a receiving and transmitting unit, a display, and a power supply. Snell et al. discloses the external programming device is of modular fashion (Fig. 1); with a hand device consisting of a transmitter/receiver (col. 2, line 30), display (Fig. 1), chargeable power supply (col. 12, line 10), and a data/power supply interface (col. 13, line 15); a base device with power and data interfaces that are compatible with the hand held unit (col. 13, line 15). Snell et al. discloses that the hand held device can be coupled to the base device.

13. With regard to claim 2, Snell et al. discloses the transmission of data from the memory of the handheld programmer to the device and/or base (col. 13, line 34).

14. With regard to claim 3 and 4, Snell et al. discloses that the device can either have a printer, or have a printer interface (col. 12, line 36). Snell et al. disclose that a strip chart printer may be used, which would provide a real time representation (col. 5, line 65).

15. With regard to claim 5, Snell et al. disclose wireless communication between the base and the hand held device (col. 13, line 22).

16. With regard to claim 6, Snell et al. disclose a touch sensitive display unit (col. 3, line 4).

17. With regard to claim 9, Snell et al. disclose an RF head to program the implanted medical device (col. 2, line 30).

Claim Rejections - 35 USC § 103

18. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

19. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

20. Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Snell et al. Snell et al. discloses the claimed invention except for the latching of the hand device to the base unit with a release button for the latching mechanical connection, and a shock triggering button. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system as taught by Snell et al., with latching of the hand device to the base unit with a release button for the latching mechanical connection, and a shock triggering button since it is known in the art that latching of the hand device to the base unit with a release button for the latching mechanical connection, and a shock triggering button is used to provide

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for a more secure attachment and to facilitate the removal of the handheld device to the base unit, the shock triggering button to provide cardiac therapy to a patient in need.

21. Claims 10-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Snell et al. in view of Nichols et al. (US 6,266,566). Snell et al. disclose the claimed invention except a mounting tilting member on the base. Nichols et al. teaches that it is known to use a mounting tilting member on the base as set forth in Fig. 6, to provide an easier to read display for the physician or primary care giver of a patient. It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the system as taught by Nelsen et al. with the a mounting tilting member on the base as taught by Nichols et al., since such a modification would provide the system with a mounting tilting member on the base for providing an easier to read display for the physician or primary care giver of a patient.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph Stoklosa whose telephone number is 571-272-1213. The examiner can normally be reached on Monday-Friday 7:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela Sykes can be reached on 571-272-4955. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Joseph Stoklosa
Examiner
Art Unit 3762

JS
11/27/2006

GEORGE R. EVANISKO
PRIMARY EXAMINER

12/4/06